

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PATENT  
APPLICATION OF:

Douglas Walter CONMY

SERIAL NO.:

09/100,223

FILING DATE:

June 19, 1998

ART UNIT:

3623

CONFIRMATION No.:

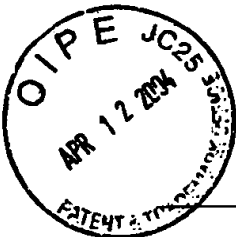
8325

EXAMINER:

Susanna M. Meinecke Diaz

FOR:

ELECTRONIC CALENDAR WITH GROUP SCHEDULING



AF/8  
3623

TRANSMITTAL LETTER

**MAIL STOP APPEAL BRIEF-PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA. 22313-1450

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Dear Sir:

Transmitted herewith for filing in the present application are the following documents:

1. Request for Oral Hearing (in duplicate);
2. Reply Brief Under 37 C.F.R. §1.193(b) (in triplicate); and
3. Check No. 2879 in the amount of \$290.00.

Our check for \$290.00 is enclosed covering any required fees. In the event any variance exists between the amount enclosed and the Patent and Trademark Office charges, please charge or credit the difference to our Deposit Account 50-0311, Reference No. 23452-050. A duplicate copy of this letter is enclosed for that purpose.

If the enclosed papers are considered incomplete, the Mail Room is respectfully requested to contact the undersigned at (703) 464-8140.

Dated: April 12, 2004

Respectfully submitted,

Sean L. Ingram

Registration No.: 48,283

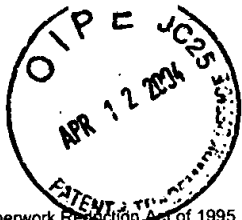
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND  
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12010 Sunset Hills Road, Suite 900

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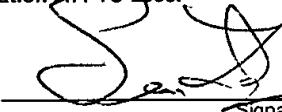
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REQUEST FOR ORAL HEARING BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES		Docket Number (Optional)  23452-050
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____  Signature _____  Typed or printed name _____		In re Application of Douglas Walter Conmy  Application Number 09/100,223  Filed June 19, 1998  For Electronic Calendar with Group Scheduling  Art Unit 3623  Examiner Susanna M. Meinecke Diaz
Applicant hereby requests an oral hearing before the Board of Patent Appeals and Interferences in the appeal of the above-identified application.		
The fee for this Request for Oral Hearing is (37 CFR 1.17(d))		\$ 290.00
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:		\$ _____
<input checked="" type="checkbox"/> A check in the amount of the fee is enclosed.		
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.		
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.		
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. <u>50-0311</u> . I have enclosed a duplicate copy of this sheet.		
<input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(b) (PTO/SB/23) is enclosed. For extensions of time in reexamination proceedings, see 37 CFR 1.550.		
<b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b>		
I am the  <input type="checkbox"/> applicant/inventor.  <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)  <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>48,283</u>  <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a) _____		 _____ Signature  Sean L. Ingram _____ Typed or printed name  (703) 464-8140 _____ Telephone number  April 12, 2004 _____ Date
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.		
<input type="checkbox"/> *Total of _____ forms are submitted.		

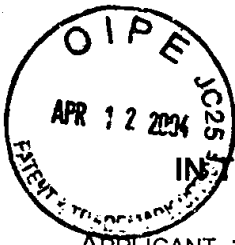
This collection of information is required by 37 CFR 1.194(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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PATENT  
Attorney Docket No. 23452-050

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Douglas Walter Conmy      CONFIRMATION No.: 8325  
SERIAL NUMBER : 09/100,223      EXAMINER : S. M. MEINECKE DIAZ  
FILING DATE : June 19, 1998      ART UNIT : 3623  
FOR : ELECTRONIC CALENDAR WITH GROUP SCHEDULING

**Reply Brief Under 37 C.F.R. §1.193(b)**

Mail Stop **APPEAL BRIEF - PATENTS**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA. 22313-1450

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APR 15 2004  
**GROUP 3600**

Sir:

In response to the Examiner's Answer dated February 12, 2004 (Paper No. 43), Appellant herewith submits this Reply Brief in triplicate pursuant to 37 C.F.R. §1.193(b).

It is believed that no fees are due in connection with this submission beyond those that otherwise may be provided for in documents accompanying this paper. However, if it is determined otherwise, the Commissioner is authorized to credit any overpayment or charge any deficiencies to the undersigned's account, Deposit Account No. 50-0311, Reference No. 23452-050.

**GENERAL COMMENTS**

As a courtesy, Appellant brings to the Examiner's attention that the appeal conference participants listed in the Examiner's Answer do not have initials illustrated next to their names. Pursuant to MPEP §1208, the "two appeal conference participants must place their initials next to their name," otherwise the "Board should return the application directly to the appropriate Technology Center (TC) Director for corrective action."

Appearing below are selected numbered paragraphs that correspond to the numbering scheme provided in the Appeal Brief and the Examiner's Answer, which warrant response based on the Examiner's Answer. For the omitted numbered paragraphs, Appellant is in agreement with the status provided in the Examiner's Answer.

#### **(4) STATUS OF AMENDMENTS**

Appellant acknowledges the Examiner's indication that "the amendment after final rejection filed on January 15, 2004 as part of the Appendix to the Appeal Brief is improper and has not been entered," (see paragraph number 4 on page 2 of the Examiner's Answer).

Appellant was merely amending claims 1-9, 11-15, 17-19, 25, 32, and 33 to provide proper antecedent basis. Appellant therefore requests that the Examiner reconsider entry of the claim amendments as they put the case in better condition for appeal and raises no new issues. In any event, Appellant reserves the right to present these amendments upon a favorable decision from the Board of Appeals.

#### **(7) GROUPING OF CLAIMS**

Appellant disagrees with the Examiner's assertion that claims 1-39 stand or fall together. In the Appeal Brief, Appellant identified separate groups of claims and made separate arguments for the identified groups. These groups should be considered separately for these reasons as well as the reasons set forth below.

#### **(8) ARGUMENT**

The Examiner's argument on the prior art rejection appears to be a new argument. This new argument still fails to establish a proper basis for rejection of the claims. Moreover, this new position further highlights some significant differences between the claimed invention and Hotaling. Additionally, even if the

assertion in these new arguments is deemed accurate (although this is not conceded), the rejection based on Hotaling still fails to render the claims obvious.

### **The New Argument**

The Examiner now appears to be taking the position that in Hotaling the "NP" designation refers to a potential invitee who is not participating in the Meeting Management service, thereby making their schedules unavailable. The Examiner further alleges that this information is displayed to a user in Fig. 11 and therefore satisfies the claim element reciting "'displaying the one or more potential invitees whose schedules could not be found' (recited in various forms throughout independent claims 1, 4-6, 25, 32, and 33)" (see page 4 of the Examiner's Answer). This differs from what the Examiner has alleged in the past.

In the office action dated February 21, 2003, the Examiner acknowledged that "Hotaling does not explicitly disclose that a user may select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then display the results according to the viewing option selected. However, Official Notice is taken that the display of filtered data based on a selected viewing option is old and well-known in the art of graphical user interfaces," (see page 3, last paragraph).

### **The New Argument Fails to Remedy Prior Differences in the Rejection**

Hotaling discloses that the "NP" designation denotes invitees that are not participating in the Meeting Management service 19 (see Hotaling, col. 10, lines 3-5). In Hotaling, a user must enroll in the Meeting Management service 19 and the service derives general information from the user's personal calendars for storage in a separate scheduling file 47 (see Hotaling, col. 3, lines 21-24). If a user chooses not to participate in the Meeting Management service 19, information is not derived from the user's personal calendar (see Hotaling, col. 3,

lines 40-42). Therefore, in Hotaling, the user's personal schedule is not directly used to find the optimal meeting date and time (see Hotaling, col. 3, lines 42-44). Rather, Hotaling is directed at providing a separate scheduling file that is derived from the user's personal calendar. Hotaling's scheduling file contains the available dates and times of each user that chooses to join the service and solves the alleged problem of infringing the privacy of a user's personal calendar. Thus, Hotaling requires the user to maintain two separate calendar systems, a personal calendar system and a "public" calendar system associated with the Meeting Management service 19. The "NP" designation is provided when a user is selected to participate in a scheduling session, but the user chooses not to create a scheduling file for scheduling purposes.

In contrast, one embodiment of the invention is directed to interfacing with various calendar applications that may be distributed over several servers, where the invitee does not have to enroll in the scheduling service (see the specification at page 13, lines 7-15). A request processing unit may request profiles from one or more servers and pass the profiles along to a busy time creation unit without waiting for all the servers to respond (see the specification at page 6, line 29 to page 7, line 3). A pipelining process may be used to provide more real-time feedback while waiting on servers that may be busy or otherwise slow in response to a request (see the specification at page 7, lines 3-5). Freetime information (the times that are not busy for all invitees) may then be reported to the user as it is collected to provide incremental feedback as it is received by the system (see the specification at page 7, lines 7-9). Therefore, the claimed "could not be found" designation may be a temporary designation that is reported until a schedule is located on a server associated with a potential invitee. Independent claims 1, 4, and 6 clearly recite that the database storing one or more profiles for the one or more potential invitees of the system is located at one or more server locations.

Based at least on the foregoing, the claimed "could not be found" designation clearly is distinguished from Hotaling's "NP" designation. Even

pursuant to the Examiner's new argument that the "NP" designation means that the user does not participate in the Meeting Management service, the claimed invention remains distinguished over the cited art.

### **Alternative Reason for Overcoming the Prior Art Rejections**

Assuming that Hotaling's "NP" designation is deemed by the Board to be equivalent to the claimed "could not be found" designation, Appellant respectfully maintains the position that the claimed invention is distinguished over Hotaling based at least on the fact that Hotaling fails to teach or suggest displaying alternate views.

### **Independent claims 1 and 5**

Regarding independent claims 1 and 5, these claims in part recite the feature of permitting the user to *select* from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then *displaying* the results according to the viewing option selected. This is particularly advantageous when there are a large number of potential invitees.

In an exemplary embodiment of the invention illustrated in Fig. 5, 174 invitees are designated for the proposed event (see Fig. 5 and page 10, lines 20-27). Of the 174 invitees, calendar information on only 158 was found, and of those invitees, only 148 were found to be available to attend (see Fig. 5 and page 10, line 27 to page 11, line 2). Display selection portion 20 may permit a user to display the views (1) By Day – Can Attend, (2) By Day – Can Not Attend, (3) By People – not found. As a result, a reduced number of names associated with "By People – not found" may be displayed to the user.

The Examiner has admitted at least twice on the record that Hotaling fails to expressly teach displaying alternative views. Instead, the Examiner is forced to take Official Notice that "displaying filtered data" based on a selected viewing

option is old and well-known in the art of graphical user interfaces. Even if this is true, the “Official Notice” fails to remedy the deficiencies of Hotaling.

Hotaling discloses one view that lists all invitees with an adjacent column designating an availability of each invitee (see Hotaling, FIG. 11 and col. 9, line 45 to col. 10, line 10). The Examiner appears to use impermissible hindsight gleaned from the specification in citing Official Notice. Even then, the combination does not disclose the claimed invention. Assuming *arguendo* that filtering per se is known, this combination fails to disclose enabling a user to select the three specific views claimed and then displaying the results for the selected view.

Hotaling does not disclose an option of displaying only those attendees associated with selected categories. Rather, Hotaling discloses displaying all invitees (i.e., 174 in this example) along with a column positioned proximate to the list of attendees to indicate the availability of each of the attendees. While the Examiner does not appear to refute this deficiency of Hotaling, the Examiner seems to believe that displaying alternate views is obvious based on Official Notice that filtering data based on a selected viewing option is old and well-known in the art of graphical user interfaces.

The criteria for establishing obviousness is set forth in MPEP §2142 and requires the existence of three elements (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art references must teach or suggest all the claim limitations.

The Examiner and Appellant agree that Hotaling does not provide any disclosure, suggestion or motivation for displaying alternate views. In an apparent attempt to formulate a suggestion or motivation for displaying alternate views, the Examiner takes Official Notice that filtering data based on a selected viewing option is old and well-known in the art of graphical user interfaces. The issue is not whether filtering of data is known. The issue is that neither Hotaling



nor the Official Notice taken by the Examiner fulfill at least the requirements of the third element of obviousness.

For at least the foregoing reason, Appellant submits that claims 1 and 5 are patentable over Hotaling. Claims 2, 3, 11, 12, 17-20, 21 and 23 depend from and add additional features to corresponding ones of independent claims 1 and 5 and are therefore patentable at least by virtue of their dependency.

**Independent claims 4 and 6**

Regarding independent claims 4 and 6, these claims in part recite the feature of permitting a user to select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then display the results according to the viewing option selected. Therefore, these claims are patentable at least for the reasons provided above with respect to claims 1 and 5.

Additionally, claim 4 recites the feature of one or more user client systems connected over a network to one or more servers operating a calendar system which enables a user to request allocation of a time interval for one or more potential invitees. Claim 6 recites the feature of a system comprising one or more databases associated with one or more servers. One embodiment of the invention is directed to interfacing with various calendar applications that may be distributed over several servers, where the invitee does not have to enroll in the scheduling service (see the specification at page 13, lines 7-15). A request processing unit may request profiles from one or more servers and pass the profiles along to a busy time creation unit without waiting for all the servers to respond (see the specification at page 6, line 29 to page 7, line 3). In contrast, Hotaling appears to disclose a Meeting Management system 19 that resides on a single server. These differences further distinguish over the "service" of Hotaling.

For at least the foregoing reason, Appellant submits that claims 4 and 6 are patentable over Hotaling. Claims 7-9, 13-16, 22 and 24 depend from and

add additional features to corresponding ones of independent claims 4 and 6 and are therefore patentable at least by virtue of their dependency.

**Independent claims 25, 32, and 33**

Regarding independent claims 25, 32, and 33, these claims in part recite a selection portion for enabling the coordinator to select one display option from a set of display options, wherein the set of display options comprises an option to display *only the names* of the invitees for which availability information could not be found, an option to display *only the names* of the invitees that were determined to be not busy between the start time and the end time on said date, and an option to display *only the names* of the invitees that were determined to be busy between the start time and the end time on the date. These features are not found in either Hotaling or the "Official Notice". Therefore, these claims are patentable at least for the reasons provided above with respect to claims 1 and 5. Furthermore, claims 25, 32, and 33 are patentable based on the fact that they recite displaying the names only of the invitees meeting the selected criteria.

In contrast, Hotaling discloses displaying several columns of information associated with all the selected users (see Fig. 11).

For at least the foregoing reason, Appellant submits that claims 25, 32, and 33 are patentable over Hotaling. Claims 26-31 and 34-39 depend from and add additional features to corresponding ones of independent claims 25, 32, and 33 and are therefore patentable at least by virtue of their dependency.

Based on the foregoing, it is clear that independent claims 1, 4, 5, 6, 25, 32 and 33 are patentably distinguishable over the cited art, taken singularly or in combination, and that dependent claims 2, 3, 7-24, 26-31, and 34-39 are allowable at least by virtue of their dependency from corresponding ones of independent claims 1, 4, 5, 6, 25, 32, and 33. Because the references relied upon by the Examiner, either alone or in combination with one another, fail to disclose, teach or suggest all of the features of the claims as set forth above, Appellant respectfully requests that the rejections of each of pending claims 1-39 under 35 U.S.C. §103(a) be reversed.

The present Reply Brief is being filed in triplicate.

Respectfully submitted,

MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POREO, P.C.

Dated: April 12, 2004

By:



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